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OFFICE OF PETITIONS

In re Application of :
Robert Aigner et al :
Application No. 10/808,949 :
Filed: March 25, 2004 :
Attorney Docket No. 068758.0180 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 21, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 22, 2005. See MPEP 1215.04.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$2160 extension of time submitted with the petition on May 31, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and has been credit to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 3729 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions